

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

LILLIE MAE HARVEY

PLAINTIFF

v.

CIVIL CASE NO. 4:18-CV-161-RP

**NANCY BERRYHILL,
COMMISSIONER OF SOCIAL SECURITY**

DEFENDANT

JUDGMENT

This cause is before the Court on the Plaintiff's complaint pursuant to 42 U.S.C. § 405(g) for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration regarding an application for disability insurance benefits and a period of disability. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The Court, having reviewed the record, the administrative transcript, the briefs of the parties, and the applicable law; and having heard oral argument; and for the reasons announced on the record at the conclusion of the parties' oral argument in this matter, finds as follows, to-wit:

The Commissioner's decision is not supported by substantial evidence and does not comport with proper legal standards. In his decision the ALJ did not address or even mention Dr. Boyd's March 7, 2014 opinion, given in follow up to his arthroscopic surgery on the plaintiff's right knee, that she has a "significant grade 4 lesion to the trochlea" that "will give her recurring pain, swelling, instability, and grinding in the future," and that she will likely be a candidate for knee replacement surgery at some point in the future. The ALJ's failure to address this medical opinion of the plaintiff's treating specialist is not harmless because "such an error

makes it impossible to know whether the ALJ properly considered and weighed an opinion, which directly affects the RFC determination.” *Kneeland v. Berryhill*, 850 F.3d 749, 761-62 (5th Cir. 2017); *see also* SSR 96-2p (S.S.A.), 1996 WL 374188, *5 (requiring articulation and explanation of weight given to treating source’s medical opinion in decision denying benefits). This case is remanded for an evaluation of the plaintiff’s application that accounts for Dr. Boyd’s opinion and that, if the decision is to deny benefits, explains the weight afforded to that opinion.

This, the 1st day of May, 2019.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE